IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03/09/2004

Coram:

The Hon'ble Mr.Justice K.GOVINDARAJAN
and
The Hon'ble Mr. Justice N.KANNADASAN

C.M.A.No.485 of 1999

1.D.S.Muralikrishnan
2.Kavitha Muralikrishnan .. Appellants

-vs-

Metropolitan Transport Corporation
(Chennai Division-I) Ltd., rep., by
its Managing Director, Pallavan
Salai, Chennai-600 002. .. Respondent
(Cause title amended vide
order dated 2.1.2001 in
CMP Nos.17976 to 17980 of 2000)

Appeal is preferred against the judgment and decree of this Court dated 16.9.1998 in MACT O.P.No.2448 of 1996 on the file of the V Judge, Court of Small Causes (Motor Accidents Claims Tribunal), Chennai.

!For Appellants : Mr.M.Swamikkannu

^For Respondent : Mr.M.Krishnamoorthy

:JUDGMENT

N. KANNADASAN, J.

The claimants have filed the above appeal, seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal.
2. The learned counsel for the appellants contended that the Tribunal while fixing the quantum for the death of the deceased girl, who was aged about 11 months, failed to consider the fact that even though the claim of Rs.2 lakhs was prayed for, a meagre amount of Rs.75,000 /- alone was awarded without adducing any reason. The learned counsel further contended that the Tribunal has not correctly applied the principle laid down by the Judgment of this Court in Managing Director, Dheeran Chinnamalai Transport Corporation vs. Thangaraju and another (1998 ACJ 450). The learned counsel further contended that the age of the deceased is immaterial, while quantifying the compensation to be awarded and on various occasions, the

Tribunals have awarded a higher amount ranging from Rs.1.50 lakhs to Rs.2 lakhs, which have been upheld by various High Courts and accordingly, prayed for enhancement and produced the said decisions.

3. Per contra, the learned counsel for the respondent contended that the Tribunal has not committed any error in awarding the compensation of Rs.75,000/-, considering the fact that the deceased was only 11 months old.

4. We have considered the rival contentions of the learned counsel appearing on either side.

5. It is not disputed that the deceased girl, who was aged 11 months, died due to the accident occurred on 7.7.1996. It is also not disputed that the said accident took place due to the rash and negligent driving of the driver of the vehicle owned by the respondentCorporation. The claimants have filed the claim petition claiming a compensation of Rs.2 lakhs under the following heads:-

Rs.

1) Damage to clothing and articles:
Dress materials damaged .. 1,000.00
2) Others:
i) Loss of pecuniary benefits and loss of estate of the deceased 1,39,000.00

ii) Loss of expectation of life 25,000.00

iii) Loss of consortium and companionship to the petitioners 25,000.00

iv) Funeral and final rites expenses 10,000.00

2,00,000.00
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6. The Tribunal, while awarding the compensation, has passed an order granting a consolidated sum of Rs.75,000/- towards compensation for the death of the child.

7. While awarding the compensation, even though the claim petition was filed under various heads, the Tribunal has chosen to award the compensation on a consolidated basis without adducing any reason.

8. The learned counsel for the appellants has cited various decisions and they are viz.,:-
1. New India Assurance Co. Ltd., Allahabad vs. Raj Bahadur (2002 (3) TAC 409 (All.))
2. Managing Director, Thanthai Periyar Transport Corporation

vs. Sundaramurthy (2001 ACJ 1101)
3. Divisional Controller, BTS Division, Karnataka State Road Transport Corporation, Bangalore vs. Vidya Shinde and Another (2004 (2) TAC 574 (Kant.))
4. United India Insurance Co. Ltd. vs. Nokhey Lal Singh (2002 ACJ 4 59)

A careful reading of all the abovesaid decisions disclose that the High Courts have not rendered any specific finding as to how the quantum of a minor child has to be arrived at. On the other hand, the said decisions are nothing but orders confirming the Awards passed by the various Motor Accidents Claims Tribunals, wherever the quantum arrived at towards the death of the minor children was challenged before the Courts. Therefore, we are of the opinion that they cannot be relied upon for the purpose of deciding the issue involved herein.

9. Hence, we have to necessarily decide the just and reasonable compensation payable to the claimants.

10. In this regard, it would be useful to refer to the decision of the Apex Court rendered in Lata Wadhwa vs. State of Bihar (2001 ACJ 1 735). Though the said decision was rendered by the Apex Court, which arose out of a fire accident in a 'Pandal', during a function of the Company, resulting in death of about 60 persons and 113 sustained burn and other injuries, the principle of the entitlement of compensation for the minor children was upheld. In fact, before rendering the said decision, the Apex Court has requested the Honourable Mr. Justice Y.V.Chandrachud, the former Chief Justice of India, to determine the compensation payable to the legal heirs of the deceased as well as the compensation payable to the injured persons. The learned Judge has submitted a report which was arrived at on the basis of provisions of Motor Vehicles Act. The Apex Court by considering the report submitted by the learned Judge has applied the multiplier of 15 in respect of the children in the age group of 10 to 15 years, treating their annual contribution at the rate of Rs.24,000/- and accordingly quantified the total compensation payable is Rs.4,10,000/- (Rs.24,000/- x 15 = Rs.3,60,000/- plus conventional amount of Rs.50,000) for each of the claimants.

11. Similarly, in respect of the children in the age group of 5 and 10, the compensation was quantified in each case at Rs.2 lakhs. The above quantum was arrived at by the Apex Court by taking note of the fact that in the report submitted by the Honourable Mr. Justice Y.V. Chandrachud, the former Chief Justice of India, has adopted the multiplier in terms of the provisions of the Motor Vehicles Act. Thus, by considering the above principle, we are of the view that the rule of multiplier can be adopted in the instant case also.

12. In view of the fact that the deceased is aged about 11 months, who happens to be a girl child, it would be appropriate to construe that she would commence the contribution to her family after 18 years, as she can be employed only after that age. Normally, the girls are likely to get married at the age of 24 years or so, though it may vary in some cases. She could contribute the family out of her income only till her marriage. If that is so, the deceased would be contributing to her family for a period of six years. Thus, the normal contribution, if we fix it notionally, it would be about Rs.2,000/- per month. Therefore, if we apply the multiplier of 6, the claimants are entitled to a sum of Rs.1,44,000/- (Rs.2,000/-x 12 x 6). In

addition to the above, we are inclined to award a sum of Rs.15,000/- towards love and affection and a sum of Rs.2,000/- towards funeral expenses. Thus, the claimants are entitled to a total compensation of Rs.1,61,000/- (Rupees One Lakh Sixty One Thousand only). The claimants are entitled to interest at 9% p.a. on the enhanced amount from the date of petition till the date of payment.

13. Accordingly, the Award of the Motor Accidents Claims Tribunal is modified and the appeal is allowed to the extent indicated above. No costs.

Internet : Yes.
Index : Yes.

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